



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2021-0250; FRL- 8860-02-R1]

Air Plan Approval; Maine and New Hampshire; 2015 Ozone NAAQS Interstate Transport Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving SIP revisions submitted by the States of Maine and New Hampshire as meeting the Clean Air Act (CAA) requirement that each State Implementation Plan (SIP) contain adequate provisions to prohibit emissions that will significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other state. This action is being taken in accordance with the Clean Air Act.

DATES: This rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2021-0250. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available at <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square - Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's

official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID-19.

FOR FURTHER INFORMATION CONTACT: Alison C. Simcox, Air Quality Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square - Suite 100, (Mail code 05-2), Boston, MA 02109 - 3912, tel. (617) 918-1684, email simcox.alison@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

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I. Background and Purpose

On June 10, 2021, EPA published a Notice of Proposed Rulemaking (NPRM) for the States of Maine and New Hampshire. *See* 86 FR 30854.

The NPRM proposed approval of Maine and New Hampshire SIP revisions that address the CAA requirement prohibiting emissions from each of these states, considered separately, from adversely affecting air quality in other states for the 2015 ozone National Ambient Air Quality Standards (NAAQS). The SIP revisions were submitted to EPA by Maine on February 6, 2020, and by New Hampshire on September 5, 2018. The rationale for EPA’s proposed action is given in the NPRM. EPA received no public comments on the NPRM.

As part of our rationale for approving the Maine and New Hampshire SIPs in the proposal, EPA relied on historical trends in National Emissions Inventory (NEI) data. The data demonstrate a downward trend in emissions in Maine and New Hampshire, adds support to the air quality analyses presented in the proposal for each state, and indicates that the contributions from emissions from sources in Maine and New Hampshire to ozone receptors (i.e., air quality monitors) in downwind states will continue to decline. For each state, the data indicate that

contributions will remain below one percent of the NAAQS. Since the publication of the proposed approval, EPA has made minor updates to the NEI data for the years 2017 through 2019. As a result of these updates, reported emissions during these years for both New Hampshire and Maine have been slightly reduced. These minor updates do not impact our decision to approve SIPs for each of these states, nor do they change our rationale for doing so, as the reduced emissions continue to support our approval decision. We have included the updated emissions data in the docket for this action.¹

II. Final Action

EPA is approving, as revisions to the Maine and New Hampshire SIPs, each state's SIP revisions, submitted on February 6, 2020, and September 5, 2018, respectively. These revisions are approved as meeting CAA section 110(a)(2)(D)(i)(I) requirements that emissions from each state, considered separately, do not contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other state.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

¹ See "2005 thru 2019 + 2021_2023_2028 Annual State Tier 1 Emissions_v3" available in the docket for this action.

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA

will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 11, 2021.

Deborah Szaro,
Acting Regional Administrator,
EPA Region 1.

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